In the High Court of Punjab and Haryana at Chandigarh

…

C.W.P.No.7438 of 2006
Date of decision:5.9.2006

S.C.Manchanda ..Petitioner

Versus

State of Punjab and others ..Respondents

Coram: **Hon'ble Mr.Justice J.S.Khehar**
Hon'ble Mr.Justice S.D.Anand

Present: Mr. Vijay Sharma,Advocate
for the petitioner.

J.S.Khehar,J.(Oral)

Notice of motion. On our asking Mr. Ashok Aggarwal, Addl. A.G. Punjab accepts notice on behalf of respondent Nos.1 to 3.

The petitioner before his entry into the employment of the Excise and Taxation Department,Punjab rendered military service with effect from 19.6.1963 to 31.10.1974. It was the desire of the petitioner that the aforesaid service be treated as qualifying service for determining his pensionary benefits in addition to the service rendered by him with Excise and Taxation Department,Punjab. This request of the petitioner was accepted by the Excise and Taxation Commissioner,Punjab vide his order dated 28.10.2003.After the petitioner had deposited an amount of Rs.7301, which he had received from the military authorities on account of gratuity and further amount of Rs.20976/- on account of interest thereon.

After some time, it transpired that the order under reference which was allegedly passed under Rule 4.3(a) of the Punjab Civil Service Rules Volume II could have only been passed at the hands of the State Government. It is therefore, that the implementation of the order passed by the Excise and Taxation Commissioner,Punjab dated 28.10.2003 was withheld so as to await the confirmation of the aforesaid orders at the hands of the competent authority.

In order to achieve the aforesaid objective, the case of the petitioner was sent to the State Government for approval. This factual position emerges from the communication dated 24.3.2004(Annexure P-5) placed on the record of this case.

The solitary contention of the counsel for the petitioner is that the rights of the petitioner to avail the benefit of service rendered in the Air Force as qualifying service has been denied to him on account of a determination on the issue by the competent authority,namely, the State Government. It is therefore, the prayer of the counsel for the petitioner that the instant writ petition be disposed of with the direction to the respondent No.1,i.e.,the Financial Commissioner,Taxation and Secretary to Government,Punjab,Excise and Taxation Department requiring him to take as final decision on the claim of the petitioner under Rule 4.3(a) of the Punjab Civil Service Rules,Volume II.

Learned counsel for the respondents has no objection to the disposal of the instant writ petition.

In view of the above, the instant writ petition is disposed of with a direction to respondent No.1,i.e.,the Financial Commissioner,Taxation and Secretary to Government,Punjab,Excise and Taxation Department to take final decision on the issue under Rule 4.3(a) of the Punjab Civil Service Rules,Volume II. by passing a well reasoned speaking order, within two months from the date of receipt of certified copy of this order.

In case the petitioner is found entitled to any monetary benefits,the same shall be calculated and paid within a further period of one month.

Disposed of accordingly.

Order dasti on payment of usual charges.

(J.S.KHEHAR)
JUDGE

September 5,2006
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(S.D.ANAND)
JUDGE